

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

RISE, INC., et al.,

Plaintiffs,

v.

MALHEUR COUNTY, et al.,

Defendants.

No. 2:10-cv-00686-SU

OPINION AND ORDER

MOSMAN, J.,

On February 13, 2012, Magistrate Judge Sullivan issued her Findings and Recommendation (“F&R”) [98] in the above-captioned case recommending that I grant in part and deny in part defendants’ Motion for Summary Judgment [20], and deny plaintiffs’ Motion for Summary Judgment [9]. Plaintiffs filed Objections [105] and defendants responded [106]. Defendant similarly filed Objections [104] and plaintiffs responded [107].

STANDARD OF REVIEW

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to

review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge Sullivan's recommendation and I ADOPT the F&R [98] as my own opinion. Plaintiffs' Motion for Summary Judgment [9] is DENIED. Defendants' Motion for Summary Judgment [20] is GRANTED IN PART AND DENIED IN PART, as follows: defendants' motion for summary judgment on plaintiffs' reasonable accommodation claims under the FHAA and the ADA is GRANTED; defendants' motion for summary judgment on plaintiffs' intentional discrimination claims under the FHAA and ADA, based on defendants' decision to require that plaintiff apply for a conditional use permit, is GRANTED; and defendants' motion for summary judgment on plaintiffs' intentional discrimination claims under the FHAA and ADA, based on defendants' decision to deny plaintiffs' conditional use permit application, is DENIED.

IT IS SO ORDERED.

DATED this 30th day of March, 2012.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court